

FARRELL THERESA C
82 TOKYO 3300

03/05/82 110208 PRINTER: LI

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TOKYO 03300 261004Z

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FM AMEMBASSY TOKYO

TO SECSTATE WASHDC IMMEDIATE 8496

UNCLAS TOKYO 03300

E.O.12065: N/A

TAGS: EEWT, PGOV, JA

SUBJECT: AVIGLIANO V. SUMITOMO LITIGATION IN SUPREME COURT

REFS: (A) STATE 026490; (B) STATE 049474; (C) TOKYO 02843

1. MFA SECOND NORTH AMERICA DIVISION

DEPUTY CHIEF YAMADA CALLED IN EMBOFF

ON AFTERNOON FEBRUARY 26 TO DELIVER

FOLLOWING OFFICIAL MFA POSITION

REGARDING THE AVIGLIANO-SUMITOMO CASE:

"A. THE MINISTRY OF FOREIGN AFFAIRS, AS

THE OFFICE OF GOJ RESPONSIBLE FOR

INTERPRETATION OF THE FCN TREATY,

REITERATES ITS VIEW CONCERNING THE

APPLICATION OF ARTICLE 8 PARAGRAPH 1

OF THE TREATY: FOR THE PURPOSE OF THE

TREATY, COMPANIES CONSTITUTED UNDER

THE APPLICABLE LAWS AND REGULATIONS

WITHIN THE TERRITORIES OF EITHER PARTY

SHALL BE DEEMED COMPANIES THEREOF AND,

THEREFORE, A SUBSIDIARY OF A JAPANESE

COMPANY WHICH IS INCORPORATED UNDER

THE LAWS OF NEW YORK IS NOT COVERED

BY ARTICLE 8 PARAGRAPH 1 WHEN IT

OPERATES IN THE UNITED STATES.

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"B. THE MINISTRY OF FOREIGN AFFAIRS

NOTES THAT THE ENCOURAGEMENT OF

MUTUALLY BENEFICIAL INVESTMENTS

BETWEEN THE TWO COUNTRIES IS AN

IMPORTANT OBJECT AND PURPOSE OF THE

FCN TREATY AND, IN THIS REGARD,

HOPES THAT THE SUMITOMO CASE WILL BE

SETTLED IN SUCH A MANNER AS NOT TO

DISCOURAGE SOUND ACTIVITIES OF SUB-

SIDIARIES OF JAPANESE COMPANIES IN

THE UNITED STATES."

2. YAMADA NOTED THAT THE FOREGOING WAS

"NOT AN AGREED PAPER," OR JOINT

STATEMENT BY MFA AND MITI; HOWEVER,

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DEPARTMENT OF STATE A/CDC/NAE

REVIEWED BY WDM DATE 9-30-80

RDS ☐ or XDS ☐ EXT. DATE

IS AUTH. _____ REASON(S) _____

ENDORSE EXISTING MARKINGS ☐

DECLASSIFIED ☐ RELEASABLE ☒

RELEASE DENIED ☐

PA or FOI EXEMPTIONS _____

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MFA'S POSITION HAD BEEN MADE KNOWN IN
SUBSTANCE TO MITI, WHICH HAD POSED NO
OBJECTION.

CLARK

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